

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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FELIX RESTITULLO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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20-cv-15562 (EP)

**MEMORANDUM OPINION &  
ORDER**

**APPEARANCES:**

Felix Restitullo  
000923410B  
Adult Diagnostic And Treatment Center  
8 Production Way  
Avenel, NJ 07001-1660

Petitioner *pro se*

Philip R. Sellinger, United States Attorney  
Melissa Mary Wangenheim , Assistant U.S. Attorney  
United States Attorney's Office for the District of New Jersey  
970 Broad Street  
Newark, NJ 07102

Attorneys for Respondent

**PADIN, District Judge**

WHEREAS, Petitioner Felix Restitullo filed a motion to correct, vacate, or set aside his federal sentence under 28 U.S.C. § 2255, see DE 1; and

WHEREAS, the Court has reviewed the motion and concluded that an answer from the United States is warranted,

THEREFORE, IT IS on this \_\_\_\_\_ day of \_\_\_\_\_, 2022,

ORDERED that within forty-five (45) days of the date of the entry of this Order, the

United States shall electronically file and serve an answer to the § 2255 Motion; and it is further

ORDERED that the answer shall respond to the allegations and grounds of the Motion and shall adhere to Rule 5 of the Rules Governing Section 2255 Proceedings; and it is further

ORDERED that the answer shall address the merits of each claim raised in the Motion as well as whether the Motion is timely; and it is further

ORDERED that, where the Petition appears to be untimely under the Antiterrorism and Effective Death Penalty Act of 1996, within forty-five (45) days of the date this Order is filed, Respondent may file a Motion to Dismiss on timeliness grounds only, provided that the motion: (1) attaches exhibits that evince all relevant court filing dates; (2) contains legal argument discussing pertinent timeliness law; and (3) demonstrates that an Answer to the merits is unnecessary; and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further

ORDERED that if the answer refers to briefs or transcripts, orders, and other documents from prior proceedings, then the United States shall serve and file them with the answer; and it is further

ORDERED that Petitioner may serve and file a reply to the answer within forty-five (45) days after the answer is filed; and it is finally

ORDERED that the Clerk shall mail a copy of this Order to Petitioner.

At Newark, New Jersey

/s/Evelyn Padin  
EVELYN PADIN, U.S.D.J.